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February 22, 2018

Jennifer LaPoma  
Remedial Project Manager  
Lower Passaic River Study Area of the Diamond Alkali Superfund Site  
US EPA, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, New York 10007

BY ELECTRONIC MAIL

Dear Ms. LaPoma,

The United States Department of the Interior – Fish and Wildlife Service – and the National Oceanic and Atmospheric Administration, who are the Federal Trustees for natural resources for the Lower Passaic River (together, “the Federal Trustees”), would like to thank the United States Environmental Protection Agency (“US EPA”) for the opportunity to participate in the March 1, 2018, meeting with US EPA’s Contaminated Sediments Technical Advisory Group (CSTAG) regarding the Remedial Investigation/Feasibility Study for the Lower Passaic River Study Area (LPRSA) portion of the Diamond Alkali Superfund Site. We look forward to attending the meeting and provide the following comments for consideration by the US EPA. Together, we have an opportunity to advance our complementary goals of cleaning up and restoring this river of ecological, cultural, and historical significance.

Our comments focus on a proposal by the Cooperating Parties Group (CPG) to US EPA Region 2 to perform an interim remedy for the upper 9 miles of the LPRSA. We trust that our comments will be useful to the CSTAG in developing their recommendations for the best path forward in the continued investigation of the LPRSA.

The natural resources of the LPRSA have been severely degraded by the release of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) and other contaminants for decades. Impacted natural resources include fish, birds, and wildlife as well as the habitats that they occupy. Federal environmental laws charge the Federal Trustees with a duty to safeguard the nation's natural resources. The Federal Trustees have determined that the release of contaminants into the Lower Passaic River warrants assessment of injuries to trust resources and restoration of injured resources and the services they provide. To achieve that goal, the Diamond Alkali and Environs Trustee Council has initiated a Natural Resource Damage Assessment to address injury from the release of hazardous substances into the Lower Passaic River and Newark Bay and other areas where site-related hazardous substances have come to be located. These areas provide significant ecological, economic, and cultural resources for the greater New York-New Jersey Harbor region. The services provided by resources impaired by the presence of 2,3,7,8-TCDD and other site-related contaminants may include recreational activities such as fishing, boating, and viewing wildlife; commerce; and ecological functions, such as feeding, breeding, and nursery habitat. Risk-based remediation of the LPRSA would serve to reduce adverse impacts to fish and wildlife resources, minimize the continued migration of contamination, and allow for meaningful natural resource restoration to be conducted within the LPRSA.

The Federal Trustees commend the US EPA's efforts to navigate the complicated issues surrounding the remediation of the Lower Passaic River and Newark Bay. The US EPA has applied considerable dedication and perseverance to the difficult task of identifying areas that can be addressed early in the process and of selecting early remedial alternatives when appropriate. Decisions have been based on sound technical rationale with solicitation and incorporation of input from a diversity of stakeholders. The Federal Trustees would like to thank the US EPA for its careful coordination with the Federal Trustees throughout the process. In general, the Federal Trustees have supported the US EPA's strategy for investigation and remediation of this important and complicated waterway.

The Federal Trustees have reviewed the proposal provided to the US EPA by the CPG, dated November 27, 2017, and have expressed our concerns to US EPA Region 2 with the approach. We understand that the proposal remains under consideration at this time. The Federal Trustees cannot support changing the US EPA's current approach to the investigation and remediation of the LPRSA to the approach proposed by the CPG for the following reasons:

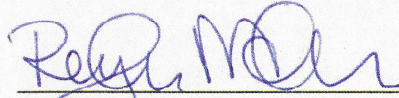
1. The proposed approach will delay development of risk-based remedial goals. The proposed sediment cleanup value is orders of magnitude higher than the risk-based value identified for the lower 8.3 miles of the LPRSA.
2. The concentration identified in the proposal is in part based on the unrealistic and unprotective simplifying assumption that all receptors have exposure areas that encompass the entire upper 9 miles of the LPRSA.
3. The CPG proposes to evaluate performance of the interim action based solely on concentrations of contaminants in fish tissue; sediment concentrations would not be evaluated and water column information would not be used to assess performance.

4. Conclusions regarding the protectiveness of the interim action would not be available until well into the future, delaying meaningful natural resource restoration of the LPRSA. An even less desirable potential outcome of the proposed interim action is one where natural resource restoration can never be conducted along the LPRSA but would instead need to be constructed far afield from where the natural resource injuries occurred.

The Federal Trustees strongly support the US EPA's current approach to investigation of the LPRSA and encourage the US EPA not to change their technically-sound risk-based approach to one that will delay the process of achieving a remedy that is protective of human health and the environment.

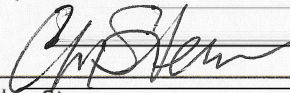
If you have any questions or comments, please do not hesitate to contact us.

On behalf of the Federal Trustees,



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Reyhan Mehran  
Regional Resource Coordinator  
Northeast Branch  
NOAA Assessment and Restoration Division



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Clay Stern  
Fish and Wildlife Biologist  
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USFWS NJ Field Office

cc: Mark Barash, US DOI, Office of the Solicitor  
Kate Barfield, NOAA, Office of General Counsel for Natural Resources  
Michael Sivak, US EPA